

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 796**

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**Introduced by Assembly Member Blumenfield**

February 17, 2011

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*An act to amend Section 44559.3 of the Health and Safety Code, and to add Division 16.1 (commencing with Section 26050) to the Public Resources Code, relating to energy, and declaring the urgency thereof, to take effect immediately. financial assistance.*

LEGISLATIVE COUNSEL'S DIGEST

AB 796, as amended, Blumenfield. ~~Energy: clean energy economy:~~  
*Financial assistance.*

(1) The California Alternative Energy and Advanced Transportation Financing Act requires the California Alternative Energy and Advanced Transportation Financing Authority (CAEATFA), in consultation with the State Energy Resources Conservation and Development Commission, to establish criteria for selecting projects related to renewable energy and alternative transportation technologies that would receive financial assistance, including loans, loan loss reserves, interest rate reductions, insurance, guarantees, and other credit enhancement or liquidity facilities, from the authority.

This bill would require the state CAEATFA to establish a program ~~the Clean Energy and Jobs Incentive Program~~ to provide financial assistance in the form of ~~loan guarantees and energy output insurance guarantees~~ *loan loss reserves to a participating financial institution providing loans to California-based entities for the development and expansion of manufacturing facilities or the installation of eligible technologies, as defined.*

~~(2) This bill would declare that it is to take effect immediately as an urgency statute.~~

(2) Existing law establishes the Capital Access Loan Program for small businesses, administered by the California Pollution Control Financing Authority (authority), which provides loans through participating financial institutions to qualifying small businesses. Existing law requires the authority to create a loss reserve account for each financial institution in order to provide protection against loss. The loss reserve account for a financial institution consists of moneys paid as fees by borrowers and the financial institution, moneys transferred to the account from a small business assistance fund, matching federal moneys, and other moneys provided by the authority or other source. Existing law requires the combined amount to be deposited by the participating financial institution into any individual loss reserve account over a 3-year period, in connection with any single borrower or any group of borrowers among which a common enterprise exists, to be not more than \$100,000.

This bill would increase this maximum contribution by the financial institution to \$200,000, if the matching contribution made by the authority is funded exclusively from funds made available pursuant to the federal Small Business Jobs Act of 2010.

Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 44559.3 of the Health and Safety Code
- 2     is amended to read:
- 3     44559.3. (a) The authority shall establish a loss reserve account
- 4     for each financial institution with which the authority makes a
- 5     contract.
- 6     (b) The loss reserve account for a financial institution shall
- 7     consist of moneys paid as fees by borrowers and the financial
- 8     institution, moneys transferred to the account from a small business
- 9     assistance fund, any matching federal moneys, and any other
- 10    moneys provided by the authority or other source.
- 11    (c) Notwithstanding any other ~~provision of~~ law, the authority
- 12    may establish and maintain loss reserve accounts with ~~any a~~
- 13    financial institution under such policies as the authority may adopt.

(d) All moneys in a loss reserve account established pursuant to this article are the exclusive property of, and solely controlled by, the authority. Interest or income earned on moneys credited to the loss reserve account shall be deemed to be part of the loss reserve account. The authority may withdraw from the loss reserve account all interest or other income that has been credited to the loss reserve account. ~~Any~~ A withdrawal made pursuant to this subdivision may be made prior to paying any claim and shall be used for the sole purpose of offsetting costs associated with carrying out the program, including administrative costs and loss reserve account contributions.

(e) ~~The~~ (1) *Except as provided in paragraph (2), the combined amount to be deposited by the participating financial institution into ~~any~~ an individual loss reserve account over a three-year period, in connection with ~~any~~ a single borrower or ~~any~~ a group of borrowers among which a common enterprise exists, shall be not more than one hundred thousand dollars (\$100,000).*

(2) *The combined amount to be deposited by the participating financial institution into an individual loss reserve account over a three-year period, in connection with a single borrower or any group of borrowers among which a common enterprise exists, shall be not more than two hundred thousand dollars (\$200,000), if the matching contribution made by the authority is funded exclusively from funds made available pursuant to the federal Small Business Jobs Act of 2010 (Public Law 111-240).*

#### SECTION 1.

SEC. 2. Division 16.1 (commencing with Section 26050) is added to the Public Resources Code, to read:

### DIVISION 16.1. CLEAN ENERGY ECONOMY AND JOBS

#### CHAPTER 1. GENERAL PROVISIONS AND ~~DEFINITION~~ DEFINITIONS

26050. (a) The Legislature finds and declares all of the following:

(1) The continued growth of California's clean technology industry is essential to the state's economic solvency and will continue to create California-based jobs.

(2) Promoting innovative technologies that reduce dependence on fossil fuels, improve energy efficiency, and reduce carbon emissions will help California meet its environmental targets and increase energy security.

(3) From 1995 to 2008, inclusive, clean technology manufacturing employment expanded by 19 percent, while overall manufacturing employment dropped by 9 percent.

(4) California's environmental laws have stimulated nine billion dollars (\$9,000,000,000) in cumulative venture capital investment from 2005 to 2009, inclusive, including two billion one hundred million dollars (\$2,100,000,000) in investment capital in 2009, representing 60 percent of the total investment in North America and more than five times the investment in the state's nearest competitor, Massachusetts.

(5) Between 2007 and 2009, California led all other states in clean technology patent registrations, outpacing the second-ranked state, New York, by more than 150.

(6) California-based companies have patented more types of electric vehicle battery technology than companies in other states.

(7) Attempting to take advantage of California's economic and environmental progress, other states and other countries are providing financial incentives to California clean energy companies to move away from California and establish manufacturing facilities elsewhere.

(8) Given the surge in out-of-state and overseas competition and incentives, it is in the state's best interest to immediately incentivize California-based clean technology companies so that they remain in California.

(b) It is the intent of the Legislature to promote the development of in-state manufacturing facilities and jobs that produce technologies that *reduce pollution*, increase energy efficiency, reduce greenhouse gas emissions, improve air quality, or reduce water pollution.

~~26051. As used in this division, "California-based entity" has the same meaning as that set forth in Section 25620.5.~~

~~26051. As used in this division, the following terms mean the following:~~

(a) "Authority" means the California Alternative Energy and Advanced Transportation Financing Authority established pursuant to Section 26004.

(b) “California-based entity” means either of the following:

(1) A corporation or other business form organized for the transaction of business in California that has its headquarters in California and manufactures in California the product in an eligible technology that qualifies for the incentive or award, as determined by the authority.

(2) A corporation or other business form organized for the transaction of business that has an office for transaction in California and substantially manufactures in California the product in an eligible technology that qualifies for the incentive or award, as determined by the authority.

(c) “Eligible technology” means any of the following:

(1) A device of technology that conserves or produces heat, processes heat, space heating, water heating, steam, space cooling, refrigeration, mechanical energy, electricity, or energy in any form convertible to these uses that does not expend or use conventional energy fuels, and that uses any of the following electrical generation technologies:

(A) Biomass.

(B) Solar thermal.

(C) Photovoltaic.

(D) Wind.

(E) Geothermal.

(2) Ultralow emission equipment for energy generation based on thermal energy systems such as natural gas turbines and fuel cells.

(3) Advanced transportation vehicles, fuels, or infrastructure.

(4) Advanced electric distributive generation technology as defined in Section 379.8 of the Public Utilities Code or energy storage technologies and their component materials.

(d) “Program” means the Clean Energy and Jobs Incentive Program established pursuant to Section 26055.

CHAPTER 2. ~~FINANCIAL ASSISTANCE~~ CLEAN ENERGY AND JOBS  
INCENTIVE PROGRAM

~~26055. (a) The state shall establish a program to provide financial assistance in the form of loan guarantees and energy output insurance guarantees to California-based entities.~~

~~(b) The program shall approve financial assistance application for an in-state manufacturing project that has reasonable prospects of repayment and sufficient funds to complete the project.~~

~~(c) The program shall identify qualified lender-applicants to be responsible for the overall financial structure of the financial assistance.~~

~~(d) The program shall evaluate applications based on need, job development benefit, environmental benefit, and financial risk.~~

~~(e) To the extent funds are required to implement the program, upon appropriation by the Legislature, the state may use federal funds as authorized by federal law, state special funds, or private funds to develop the program.~~

~~SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:~~

~~To expedite the promotion of California-based manufacturing and California-based jobs, the reduction of greenhouse gas emissions, the reduction in air and water pollution, and the reduction in energy consumption by providing, as soon as possible, financial assistance to projects undertaken by California-based companies, thereby preserving the public peace, health, and safety, it is necessary for this measure to take effect immediately.~~

~~26055. (a) The authority shall establish the Clean Energy and Jobs Incentive Program for eligible California-based entities for the development and expansion of manufacturing facilities or the installation of eligible technologies.~~

~~(b) The program shall provide a loan loss reserve account to a participating loan institution that would be responsible for the overall financial structure of the financial assistance for clean technology manufacturing development and expansion.~~

~~(c) The program shall evaluate an application based on need, job development benefit, environmental benefit, and financial risk.~~

~~(d) The program shall allow a participating financial institution to apply for loan loss reserve support for qualified loans for clean energy technology manufacturing development and expansion.~~

~~(e) The program shall establish a process for allowing a lender applicant to become a participating financial institution and enroll in the loan loss reserve program.~~

1     (f) *The process established pursuant to subdivision (e) shall, at*  
2     *a minimum, require the lender applicant to provide certification*  
3     *of all of the following:*

4     (1) *The applicant meets federal and state requirements for a*  
5     *financial institution.*

6     (2) *The borrower has secured or made applications for all*  
7     *applicable licenses or permits needed to conduct business,*  
8     *including appropriate environmental review.*

9     (3) *The borrower is a California-based entity that is developing*  
10    *an eligible technology.*

11    (4) *The lender applicant and the borrower would not be able*  
12    *to enter into a loan without the loan loss reserve support.*

13    (g) *The program shall give priority to lender applicants that*  
14    *are working with borrowers that have been offered financial*  
15    *assistance to relocate to another state or other countries.*

16    (h) *To the extent funds are required to implement the program,*  
17    *that authority, upon the appropriation of the Legislature, may use*  
18    *federal funds as authorized by federal law, state funds, including*  
19    *the renewable energy public goods charge collected pursuant to*  
20    *Section 399.12 of the Public Utilities Code, or private funds to*  
21    *develop the program.*